



## Civil Rights Division

JDR:TCH:TAR:jdh  
DJ 166-012-3  
2003-2245  
2003-3434

Voting Section - NWB.  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

November 17, 2003

Charles B. Campbell, Esq.  
Assistant Attorney General  
11 South Union Street  
Montgomery, Alabama 36130

Dear Mr. Campbell:

This refers to Act 2003-313, which makes a number of changes, inter alia, to implement the Help America Vote Act of 2002, 42 U.S.C. 15301 to 15545 ("HAVA"), including: designating the Secretary of State as the chief election official in the State to carry out various responsibilities with the assistance of certain boards and committees; enabling the Secretary of State to promulgate administrative rules, instructions, guidance, and forms to implement various statutes; moving the Office of Voter Registration and its responsibilities under the Office of the Secretary of State; designating the probate judge as the chief election official in each county and chair of the canvassing board; revising procedures for voters on the inactive list to re-identify; revising procedures on absentee voting; revising procedures for registration and absentee voting by military and overseas voters; revising provisions related to registrars; revising procedures for voter information posters; creating procedures for mail-in registrants to provide voter identification; requiring a statewide computerized voter registration list meeting specific standards which will serve as the official list for the conduct of all elections; requiring the statewide list be coordinated with driver license and social security records; creating procedures for provisional voting, including procedures for all voters who fail to provide identification to be notified and allowed to provide identification up to six days after election day; requiring a free access system for voters to determine if their provisional ballot was counted; extending post-election canvass and reporting deadlines; requiring administrative procedures for hearing complaints under Title III of HAVA; creating a state Help America

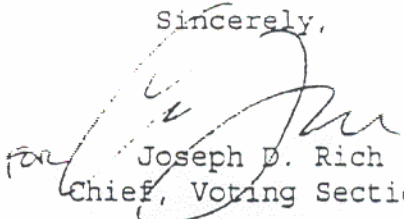
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Vote Fund; creating criminal penalties for providing false information in registering or voting; requiring voting systems to satisfy certain standards on or before January 1, 2005; requiring adoption of standards for what constitutes a vote on each voting system; repealing procedures for marking voters' hands; and repealing certain challenged ballot procedures; Section 1(c) of Act 2003-381, which provides that voters who vote by mail must include a copy of one form of voter identification specified in that Act; the Alabama Attorney General's Opinion of May 30, 2003, which provides that the Secretary of State is the chief State election official under HAVA, and that HAVA requires the Secretary to implement a statewide voter registration list according to specific standards; and the Alabama Attorney General's Opinion of July 31, 2003, which clarifies that existing challenged ballot procedures, rather than provisional balloting procedures in Act 2003-313, will apply to in-person and absentee voters in municipal elections, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on September 17, 2003; supplemental information was received on November 13, 2003.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Act 2003-313 includes provisions that are enabling in nature. Therefore, any changes affecting voting that are adopted pursuant to this legislation require Section 5 review (e.g., rules, instructions, guidance and forms promulgated by the Secretary of State). See 28 C.F.R. 51.15.

Sincerely,

  
for Joseph D. Rich  
Chief, Voting Section